

AMENDED IN ASSEMBLY APRIL 11, 2007

AMENDED IN ASSEMBLY MARCH 26, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 841

**Introduced by Assembly Member Portantino Members Portantino
and Horton**

(Coauthors: Assembly Members Aghazarian and Ma)

(Coauthors: Senators Battin, Cox, and Harman)

February 22, 2007

An act to amend Sections 288, 290, and 290.46 of 290 and 290.46
of, and to add Section 288.8 to, the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 841, as amended, Portantino. Crime.

Existing law provides that any person who willfully and lewdly commits any lewd or lascivious act, upon or with the body, or any part or member thereof, of a child who is under 14 years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is *various sex offenses that are* punishable by imprisonment in the state prison for 3, 6, or 8 years.

This bill would provide that any person 18 years of age or older who knowingly misrepresents his or her age with the intent to use the Internet to attempt, to commit, or to facilitate ~~any lewd or lascivious act, as described above,~~ *specified sex offenses* is guilty of a felony and shall be punished by imprisonment in the state prison for 3, 6, or 8 years.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law requires persons convicted of specified sex offenses to register with local law enforcement authorities, as specified. A willful violation of these registration requirements is punishable as a misdemeanor or as a felony, as specified. Existing law requires that persons who are subject to registration be informed of their duty to register upon release from incarceration or confinement in a hospital, as specified, and requires the official responsible for place of confinement or hospital to obtain and report to the Department of Justice the person's expected address upon release.

This bill would require that the information required for registration include all electronic mail addresses; *and* instant message addresses; ~~or other similar Internet identifiers~~ the person ~~used~~ *uses* or will use to communicate over the Internet. The bill would require the official in charge of a place of confinement or hospital to obtain and report to the Department of Justice all electronic mail addresses; *and* instant message addresses; ~~or other similar Internet identifiers~~ the person ~~used~~ *uses* or will use to communicate over the Internet in addition to the person's expected address upon release.

Existing law requires every person who has ever been adjudicated a sexually violent predator, after his or her release from custody, to verify his or her address no less than every 90 days in a manner established by the Department of Justice.

This bill would also require every person who has ever been adjudicated a sexually violent predator, after his or her release from custody, to verify any electronic mail addresses; *and* instant message addresses; ~~or other similar Internet identifiers~~ the person ~~used~~ *uses* or will use to communicate over the Internet.

Existing law provides that any person who was last registered at a residence address who changes his or her residence address shall, within 5 working days of the move, inform the law enforcement agency or agencies with which he or she last registered of the move, which shall then forward the change of address information to the Department of Justice.

This bill would provide that if any person who is required to register pursuant to these provisions obtains a new electronic mail address; *or* instant message address; ~~or other similar Internet identifier~~, he or she must inform the law enforcement agency or agencies with which he or she is currently registered of that new address ~~or identifier~~, and that agency shall then forward this information to the Department of Justice, as specified.

By expanding the scope of registration requirements, the willful violation of which is an offense, this bill would impose a state-mandated local program. By imposing additional reporting duties on local law enforcement entities, this bill would impose a state-mandated local program.

Existing law requires the Department of Justice to make information concerning certain persons who are required to register as sex offenders available to the public via an Internet Web site, including the offender's criminal history. Existing law provides that certain persons may be granted an exclusion from the Internet Web site and that no information concerning the person shall be made available via the Internet Web site.

This bill would provide that the electronic mail addresses; *and* instant message addresses; ~~and other similar Internet identifiers~~ of a person who is required to register as a sex offender and who has been granted an exclusion from the Department of Justice Internet Web site shall be available to commercial social networking Web sites, as defined, or a 3rd party designated by a commercial social networking Web site, to screen new users and to compare against the database of registered users, as specified. This bill would provide that a commercial social networking Web site and its directors, officers, employees, and agents shall be immune from liability for good faith conduct *and other specified acts* pursuant to these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 288.8 is added to the Penal Code, to read:*
- 2 *288.8. Any person who is 18 years of age or older who*
- 3 *knowingly misrepresents his or her age with the intent to use the*
- 4 *Internet to attempt, to commit, or to facilitate, an act described in*

1 *subdivision (a) of Section 288, or a violation of Section 261, 261.5,*
2 *262, 286, 288.3, or 289 which is punishable by a term of*
3 *imprisonment in the state prison for three, six, or eight years, is*
4 *guilty of a felony, and shall be punished by imprisonment in the*
5 *state prison for three, six, or eight years.*

6 ~~SECTION 1. Section 288 of the Penal Code is amended to~~
7 ~~read:~~

8 ~~288. (a) Any person who willfully and lewdly commits any~~
9 ~~lewd or lascivious act, including any of the acts constituting other~~
10 ~~crimes provided for in Part 1, upon or with the body, or any part~~
11 ~~or member thereof, of a child who is under 14 years of age, with~~
12 ~~the intent of arousing, appealing to, or gratifying the lust, passions,~~
13 ~~or sexual desires of that person or the child, is guilty of a felony~~
14 ~~and shall be punished by imprisonment in the state prison for three,~~
15 ~~six, or eight years.~~

16 ~~(b) (1) Any person who commits an act described in subdivision~~
17 ~~(a) by use of force, violence, duress, menace, or fear of immediate~~
18 ~~and unlawful bodily injury on the victim or another person, is~~
19 ~~guilty of a felony and shall be punished by imprisonment in the~~
20 ~~state prison for three, six, or eight years.~~

21 ~~(2) Any person who is a caretaker and commits an act described~~
22 ~~in subdivision (a) upon a dependent person by use of force,~~
23 ~~violence, duress, menace, or fear of immediate and unlawful bodily~~
24 ~~injury on the victim or another person, with the intent described~~
25 ~~in subdivision (a), is guilty of a felony and shall be punished by~~
26 ~~imprisonment in the state prison for three, six, or eight years.~~

27 ~~(c) (1) Any person who commits an act described in subdivision~~
28 ~~(a) with the intent described in that subdivision, and the victim is~~
29 ~~a child of 14 or 15 years of age, and that person is at least 10 years~~
30 ~~older than the child, is guilty of a public offense and shall be~~
31 ~~punished by imprisonment in the state prison for one, two, or three~~
32 ~~years, or by imprisonment in a county jail for not more than one~~
33 ~~year. In determining whether the person is at least 10 years older~~
34 ~~than the child, the difference in age shall be measured from the~~
35 ~~birth date of the person to the birth date of the child.~~

36 ~~(2) Any person who is a caretaker and commits an act described~~
37 ~~in subdivision (a) upon a dependent person, with the intent~~
38 ~~described in subdivision (a), is guilty of a public offense and shall~~
39 ~~be punished by imprisonment in the state prison for one, two, or~~

1 three years, or by imprisonment in a county jail for not more than
2 one year.

3 ~~(d) Any person who is 18 years of age or older who knowingly~~
4 ~~misrepresents his or her age with the intent to use the Internet to~~
5 ~~attempt, to commit, or to facilitate an act described in subdivision~~
6 ~~(a) is guilty of a felony and shall be punished by imprisonment in~~
7 ~~the state prison for three, six, or eight years.~~

8 ~~(e) In any arrest or prosecution under this section or Section~~
9 ~~288.5, the peace officer, district attorney, and the court shall~~
10 ~~consider the needs of the child victim or dependent person and~~
11 ~~shall do whatever is necessary, within existing budgetary resources,~~
12 ~~and constitutionally permissible to prevent psychological harm to~~
13 ~~the child victim or to prevent psychological harm to the dependent~~
14 ~~person victim resulting from participation in the court process.~~

15 ~~(f) Upon the conviction of any person for a violation of~~
16 ~~subdivision (a) or (b), the court may, in addition to any other~~
17 ~~penalty or fine imposed, order the defendant to pay an additional~~
18 ~~fine not to exceed ten thousand dollars (\$10,000). In setting the~~
19 ~~amount of the fine, the court shall consider any relevant factors,~~
20 ~~including, but not limited to, the seriousness and gravity of the~~
21 ~~offense, the circumstances of its commission, whether the~~
22 ~~defendant derived any economic gain as a result of the crime, and~~
23 ~~the extent to which the victim suffered economic losses as a result~~
24 ~~of the crime. Every fine imposed and collected under this section~~
25 ~~shall be deposited in the Victim-Witness Assistance Fund to be~~
26 ~~available for appropriation to fund child sexual exploitation and~~
27 ~~child sexual abuse victim counseling centers and prevention~~
28 ~~programs pursuant to Section 13837.~~

29 ~~If the court orders a fine imposed pursuant to this subdivision,~~
30 ~~the actual administrative cost of collecting that fine, not to exceed~~
31 ~~2 percent of the total amount paid, may be paid into the general~~
32 ~~fund of the county treasury for the use and benefit of the county.~~

33 ~~(g) For purposes of paragraph (2) of subdivision (b) and~~
34 ~~paragraph (2) of subdivision (c), the following definitions apply:~~

35 ~~(1) "Caretaker" means an owner, operator, administrator,~~
36 ~~employee, independent contractor, agent, or volunteer of any of~~
37 ~~the following public or private facilities when the facilities provide~~
38 ~~care for elder or dependent persons:~~

39 ~~(A) Twenty-four hour health facilities, as defined in Sections~~
40 ~~1250, 1250.2, and 1250.3 of the Health and Safety Code.~~

- 1 ~~(B) Clinics.~~
2 ~~(C) Home health agencies.~~
3 ~~(D) Adult day health care centers.~~
4 ~~(E) Secondary schools that serve dependent persons and~~
5 ~~postsecondary educational institutions that serve dependent persons~~
6 ~~or elders.~~
7 ~~(F) Sheltered workshops.~~
8 ~~(G) Camps.~~
9 ~~(H) Community care facilities, as defined by Section 1402 of~~
10 ~~the Health and Safety Code, and residential care facilities for the~~
11 ~~elderly, as defined in Section 1569.2 of the Health and Safety~~
12 ~~Code.~~
13 ~~(I) Respite care facilities.~~
14 ~~(J) Foster homes.~~
15 ~~(K) Regional centers for persons with developmental disabilities.~~
16 ~~(L) A home health agency licensed in accordance with Chapter~~
17 ~~8 (commencing with Section 1725) of Division 2 of the Health~~
18 ~~and Safety Code.~~
19 ~~(M) An agency that supplies in-home supportive services.~~
20 ~~(N) Board and care facilities.~~
21 ~~(O) Any other protective or public assistance agency that~~
22 ~~provides health services or social services to elder or dependent~~
23 ~~persons, including, but not limited to, in-home supportive services,~~
24 ~~as defined in Section 14005.14 of the Welfare and Institutions~~
25 ~~Code.~~
26 ~~(P) Private residences.~~
27 ~~(2) "Board and care facilities" means licensed or unlicensed~~
28 ~~facilities that provide assistance with one or more of the following~~
29 ~~activities:~~
30 ~~(A) Bathing.~~
31 ~~(B) Dressing.~~
32 ~~(C) Grooming.~~
33 ~~(D) Medication storage.~~
34 ~~(E) Medical dispensation.~~
35 ~~(F) Money management.~~
36 ~~(3) "Dependent person" means any person who has a physical~~
37 ~~or mental impairment that substantially restricts his or her ability~~
38 ~~to carry out normal activities or to protect his or her rights,~~
39 ~~including, but not limited to, persons who have physical or~~
40 ~~developmental disabilities or whose physical or mental abilities~~

1 have significantly diminished because of age. “Dependent person”
2 includes any person who is admitted as an inpatient to a 24-hour
3 health facility, as defined in Sections 1250, 1250.2, and 1250.3 of
4 the Health and Safety Code.

5 ~~(h) Paragraph (2) of subdivision (b) and paragraph (2) of~~
6 ~~subdivision (e) apply to the owners, operators, administrators,~~
7 ~~employees, independent contractors, agents, or volunteers working~~
8 ~~at these public or private facilities and only to the extent that the~~
9 ~~individuals personally commit, conspire, aid, abet, or facilitate any~~
10 ~~act prohibited by paragraph (2) of subdivision (b) and paragraph~~
11 ~~(2) of subdivision (e).~~

12 ~~(i) Paragraph (2) of subdivision (b) and paragraph (2) of~~
13 ~~subdivision (e) do not apply to a caretaker who is a spouse of, or~~
14 ~~who is in an equivalent domestic relationship with, the dependent~~
15 ~~person under care.~~

16 SEC. 2. Section 290 of the Penal Code is amended to read:

17 290. (a) (1) (A) Every person described in paragraph (2), for
18 the rest of his or her life while residing in California, or while
19 attending school or working in California, as described in
20 subparagraph (G), shall be required to register with the chief of
21 police of the city in which he or she is residing, or the sheriff of
22 the county if he or she is residing in an unincorporated area or city
23 that has no police department, and, additionally, with the chief of
24 police of a campus of the University of California, the California
25 State University, or community college if he or she is residing
26 upon the campus or in any of its facilities, within five working
27 days of coming into, or changing his or her residence within, any
28 city, county, or city and county, or campus in which he or she
29 temporarily resides.

30 (B) If the person who is registering has more than one residence
31 address at which he or she regularly resides, he or she shall register
32 in accordance with subparagraph (A) in each of the jurisdictions
33 in which he or she regularly resides, regardless of the number of
34 days or nights spent there. If all of the addresses are within the
35 same jurisdiction, the person shall provide the registering authority
36 with all of the addresses where he or she regularly resides.

37 (C) Every person described in paragraph (2), for the rest of his
38 or her life while living as a transient in California shall be required
39 to register, as follows:

1 (i) A transient must register, or reregister if the person has
2 previously registered, within five working days from release from
3 incarceration, placement or commitment, or release on probation,
4 pursuant to paragraph (1) of subdivision (a), except that if the
5 person previously registered as a transient less than 30 days from
6 the date of his or her release from incarceration, he or she does
7 not need to reregister as a transient until his or her next required
8 30-day update of registration. If a transient is not physically present
9 in any one jurisdiction for five consecutive working days, he or
10 she must register in the jurisdiction in which he or she is physically
11 present on the fifth working day following release, pursuant to
12 paragraph (1) of subdivision (a). Beginning on or before the 30th
13 day following initial registration upon release, a transient must
14 reregister no less than once every 30 days thereafter. A transient
15 shall register with the chief of police of the city in which he or she
16 is physically present within that 30-day period, or the sheriff of
17 the county if he or she is physically present in an unincorporated
18 area or city that has no police department, and additionally, with
19 the chief of police of a campus of the University of California, the
20 California State University, or community college if he or she is
21 physically present upon the campus or in any of its facilities. A
22 transient must reregister no less than once every 30 days regardless
23 of the length of time he or she has been physically present in the
24 particular jurisdiction in which he or she reregisters. If a transient
25 fails to reregister within any 30-day period, he or she may be
26 prosecuted in any jurisdiction in which he or she is physically
27 present.

28 (ii) A transient who moves to a residence shall have five working
29 days within which to register at that address, in accordance with
30 subparagraph (A) of paragraph (1) of subdivision (a). A person
31 registered at a residence address in accordance with subparagraph
32 (A) of paragraph (1) of subdivision (a), who becomes transient
33 shall have five working days within which to reregister as a
34 transient in accordance with clause (i).

35 (iii) Beginning on his or her first birthday following registration,
36 a transient shall register annually, within five working days of his
37 or her birthday, to update his or her registration with the entities
38 described in clause (i). A transient shall register in whichever
39 jurisdiction he or she is physically present on that date. At the
40 30-day updates and the annual update, a transient shall provide

1 current information as required on the Department of Justice annual
2 update form, including the information described in subparagraphs
3 (A) to (C), inclusive, and subparagraph (F) of paragraph (2) of
4 subdivision (e), and the information specified in clause (iv).

5 (iv) A transient shall, upon registration and reregistration,
6 provide current information as required on the Department of
7 Justice registration forms, and shall also list the places where he
8 or she sleeps, eats, works, frequents, and engages in leisure
9 activities. If a transient changes or adds to the places listed on the
10 form during the 30-day period, he or she does not need to report
11 the new place or places until the next required reregistration.

12 (v) Failure to comply with the requirement of reregistering every
13 30 days following initial registration pursuant to clause (i) of this
14 subparagraph shall be punished in accordance with paragraph (6)
15 of subdivision (g). Failure to comply with any other requirement
16 of this section shall be punished in accordance with either
17 paragraph (1) or (2) of subdivision (g).

18 (vi) A transient who moves out of state shall inform, in person,
19 the chief of police in the city in which he or she is physically
20 present, or the sheriff of the county if he or she is physically present
21 in an unincorporated area or city that has no police department,
22 within five working days, of his or her move out of state. The
23 transient shall inform that registering agency of his or her planned
24 destination, residence or transient location out of state, and any
25 plans he or she has to return to California, if known. The law
26 enforcement agency shall, within three days after receipt of this
27 information, forward a copy of the change of location information
28 to the Department of Justice. The department shall forward
29 appropriate registration data to the law enforcement agency having
30 local jurisdiction of the new place of residence or location.

31 (vii) For purposes of this section, “transient” means a person
32 who has no residence. “Residence” means one or more addresses
33 at which a person regularly resides, regardless of the number of
34 days or nights spent there, such as a shelter or structure that can
35 be located by a street address, including, but not limited to, houses,
36 apartment buildings, motels, hotels, homeless shelters, and
37 recreational and other vehicles.

38 (viii) The transient registrant’s duty to update his or her
39 registration no less than every 30 days shall begin with his or her

1 second transient update following the date this subdivision became
2 effective.

3 (D) Beginning on his or her first birthday following registration
4 or change of address, the person shall be required to register
5 annually, within five working days of his or her birthday, to update
6 his or her registration with the entities described in subparagraph
7 (A). At the annual update, the person shall provide current
8 information as required on the Department of Justice annual update
9 form, including the information described in subparagraphs (A)
10 to (C), inclusive, and subparagraph (F) of paragraph (2) of
11 subdivision (e).

12 (E) In addition, every person who has ever been adjudicated a
13 sexually violent predator, as defined in Section 6600 of the Welfare
14 and Institutions Code, shall, after his or her release from custody,
15 verify his or her address, and any electronic mail address, instant
16 message address, or other similar Internet identifier the person
17 ~~used~~ *uses* or will use to communicate over the Internet, no less
18 than once every 90 days and place of employment, including the
19 name and address of the employer, in a manner established by the
20 Department of Justice.

21 (F) No entity shall require a person to pay a fee to register or
22 update his or her registration pursuant to this section. The
23 registering agency shall submit registrations, including annual
24 updates or changes of address, directly into the Department of
25 Justice Violent Crime Information Network (VCIN). The
26 registering agency shall give the registrant a copy of the completed
27 Department of Justice form each time the person registers or
28 reregisters, including at the annual update.

29 (G) Persons required to register in their state of residence who
30 are out-of-state residents employed, or carrying on a vocation in
31 California on a full-time or part-time basis, with or without
32 compensation, for more than 14 days, or for an aggregate period
33 exceeding 30 days in a calendar year, shall register in accordance
34 with subparagraph (A). Persons described in paragraph (2) who
35 are out-of-state residents enrolled in any educational institution in
36 California, as defined in Section 22129 of the Education Code, on
37 a full-time or part-time basis, shall register in accordance with
38 subparagraph (A). The place where the out-of-state resident is
39 located, for purposes of registration, shall be the place where the
40 person is employed, carrying on a vocation, or attending school.

1 The out-of-state resident subject to this subparagraph shall, in
2 addition to the information required pursuant to subdivision (e),
3 provide the registering authority with the name of his or her place
4 of employment or the name of the school attended in California,
5 and his or her address or location in his or her state of residence.
6 The registration requirement for persons subject to this
7 subparagraph shall become operative on November 25, 2000. The
8 terms “employed or carries on a vocation” include employment
9 whether or not financially compensated, volunteered, or performed
10 for government or educational benefit.

11 (2) The following persons shall be required to register pursuant
12 to paragraph (1):

13 (A) Any person who, since July 1, 1944, has been or is hereafter
14 convicted in any court in this state or in any federal or military
15 court of a violation of Section 187 committed in the perpetration,
16 or an attempt to perpetrate, rape or any act punishable under
17 Section 286, 288, 288a, or 289, Section 207 or 209 committed
18 with intent to violate Section 261, 286, 288, 288a, or 289, Section
19 220, except assault to commit mayhem, Section 243.4, paragraph
20 (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or
21 paragraph (1) of subdivision (a) of Section 262 involving the use
22 of force or violence for which the person is sentenced to the state
23 prison, Section 264.1, 266, or 266c, subdivision (b) of Section
24 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285,
25 286, 288, 288a, 288.3, 288.5, 288.7, or 289, Section 311.1,
26 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,
27 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of
28 Section 653f, subdivision 1 or 2 of Section 314, any offense
29 involving lewd or lascivious conduct under Section 272, or any
30 felony violation of Section 288.2; or any statutory predecessor that
31 includes all elements of one of the above-mentioned offenses; or
32 any person who since that date has been or is hereafter convicted
33 of the attempt or conspiracy to commit any of the above-mentioned
34 offenses.

35 (B) Any person who, since July 1, 1944, has been or hereafter
36 is released, discharged, or paroled from a penal institution where
37 he or she was confined because of the commission or attempted
38 commission of one of the offenses described in subparagraph (A).

39 (C) Any person who, since July 1, 1944, has been or hereafter
40 is determined to be a mentally disordered sex offender under

1 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
2 of Division 6 of the Welfare and Institutions Code or any person
3 who has been found guilty in the guilt phase of a trial for an offense
4 for which registration is required by this section but who has been
5 found not guilty by reason of insanity in the sanity phase of the
6 trial.

7 (D) (i) Any person who, since July 1, 1944, has been, or is
8 hereafter convicted in any other court, including any state, federal,
9 or military court, of any offense that, if committed or attempted
10 in this state, would have been punishable as one or more of the
11 offenses described in subparagraph (A), including offenses in
12 which the person was a principal, as defined in Section 31.

13 (ii) Any person ordered by any other court, including any state,
14 federal, or military court, to register as a sex offender for any
15 offense, if the court found at the time of conviction or sentencing
16 that the person committed the offense as a result of sexual
17 compulsion or for purposes of sexual gratification.

18 (iii) (I) Except as provided in subclause (II), any person who
19 would be required to register while residing in the state of
20 conviction for a sex offense committed in that state.

21 (II) Notwithstanding subclause (I), a person convicted in another
22 state of an offense similar to one of the following offenses who is
23 required to register in the state of conviction shall not be required
24 to register in California unless the out-of-state offense contains all
25 of the elements of a registerable California offense described in
26 subparagraph (A):

27 (aa) Indecent exposure, pursuant to Section 314.

28 (ab) Unlawful sexual intercourse, pursuant to Section 261.5.

29 (ac) Incest, pursuant to Section 285.

30 (ad) Sodomy, pursuant to Section 286, or oral copulation,
31 pursuant to Section 288a, provided that the offender notifies the
32 Department of Justice that the sodomy or oral copulation conviction
33 was for conduct between consenting adults, as described in
34 subparagraph (G) and the department is able, upon the exercise of
35 reasonable diligence, to verify that fact.

36 (ae) Pimping, pursuant to Section 266h, or pandering, pursuant
37 to Section 266i.

38 (E) Any person ordered by any court to register pursuant to this
39 section for any offense not included specifically in this section if
40 the court finds at the time of conviction or sentencing that the

1 person committed the offense as a result of sexual compulsion or
2 for purposes of sexual gratification. The court shall state on the
3 record the reasons for its findings and the reasons for requiring
4 registration.

5 (F) Any person required to register pursuant to any provision
6 of this section, regardless of whether the person's conviction has
7 been dismissed pursuant to Section 1203.4, unless the person
8 obtains a certificate of rehabilitation and is entitled to relief from
9 registration pursuant to Section 290.5.

10 (G) (i) Notwithstanding any other subdivision, a person who
11 was convicted before January 1, 1976, under subdivision (a) of
12 Section 286, or Section 288a, shall not be required to register
13 pursuant to this section for that conviction if the conviction was
14 for conduct between consenting adults that was decriminalized by
15 Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes
16 of 1976. The Department of Justice shall remove that person from
17 the Sex Offender Registry, and the person is discharged from his
18 or her duty to register pursuant to the following procedure:

19 (I) The person submits to the Department of Justice official
20 documentary evidence, including court records or police reports,
21 that demonstrate that the person's conviction pursuant to either of
22 those sections was for conduct between consenting adults that was
23 decriminalized; or

24 (II) The person submits to the department a declaration stating
25 that the person's conviction pursuant to either of those sections
26 was for consensual conduct between adults that has been
27 decriminalized. The declaration shall be confidential and not a
28 public record, and shall include the person's name, address,
29 telephone number, date of birth, and a summary of the
30 circumstances leading to the conviction, including the date of the
31 conviction and county of the occurrence.

32 (III) The department shall determine whether the person's
33 conviction was for conduct between consensual adults that has
34 been decriminalized. If the conviction was for consensual conduct
35 between adults that has been decriminalized, and the person has
36 no other offenses for which he or she is required to register
37 pursuant to this section, the department shall, within 60 days of
38 receipt of those documents, notify the person that he or she is
39 relieved of the duty to register, and shall notify the local law
40 enforcement agency with which the person is registered that he or

1 she has been relieved of the duty to register. The local law
2 enforcement agency shall remove the person's registration from
3 its files within 30 days of receipt of notification. If the documentary
4 or other evidence submitted is insufficient to establish the person's
5 claim, the department shall, within 60 days of receipt of those
6 documents, notify the person that his or her claim cannot be
7 established, and that the person shall continue to register pursuant
8 to this section. The department shall provide, upon the person's
9 request, any information relied upon by the department in making
10 its determination that the person shall continue to register pursuant
11 to this section. Any person whose claim has been denied by the
12 department pursuant to this clause may petition the court to appeal
13 the department's denial of the person's claim.

14 (ii) On or before July 1, 1998, the department shall make a report
15 to the Legislature concerning the status of persons who may come
16 under the provisions of this subparagraph, including the number
17 of persons who were convicted before January 1, 1976, under
18 subdivision (a) of Section 286 or Section 288a and are required to
19 register under this section, the average age of these persons, the
20 number of these persons who have any subsequent convictions for
21 a registerable sex offense, and the number of these persons who
22 have sought successfully or unsuccessfully to be relieved of their
23 duty to register under this section.

24 (b) (1) Any person who is released, discharged, or paroled from
25 a jail, state or federal prison, school, road camp, or other institution
26 where he or she was confined because of the commission or
27 attempted commission of one of the offenses specified in
28 subdivision (a) or is released from a state hospital to which he or
29 she was committed as a mentally disordered sex offender under
30 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
31 of Division 6 of the Welfare and Institutions Code, shall, prior to
32 discharge, parole, or release, be informed of his or her duty to
33 register under this section by the official in charge of the place of
34 confinement or hospital, and the official shall require the person
35 to read and sign any form that may be required by the Department
36 of Justice, stating that the duty of the person to register under this
37 section has been explained to the person. The official in charge of
38 the place of confinement or hospital shall obtain the address where
39 the person expects to reside upon his or her discharge, parole, or
40 release, and any electronic mail address, ~~instant message address,~~

1 ~~or other similar Internet identifier the person used~~ *and instant*
2 *message address the person uses* or will use to communicate over
3 the Internet, and shall report the residence address and electronic
4 mail addresses, ~~instant message addresses, or other similar Internet~~
5 ~~identifiers~~ *and instant message addresses* to the Department of
6 Justice. The official shall at the same time forward a current
7 photograph of the person to the Department of Justice.

8 (2) The official in charge of the place of confinement or hospital
9 shall give one copy of the form to the person and shall send one
10 copy to the Department of Justice and one copy to the appropriate
11 law enforcement agency or agencies having jurisdiction over the
12 place the person expects to reside upon discharge, parole, or
13 release. If the conviction that makes the person subject to this
14 section is a felony conviction, the official in charge shall, not later
15 than 45 days prior to the scheduled release of the person, send one
16 copy to the appropriate law enforcement agency or agencies having
17 local jurisdiction where the person expects to reside upon
18 discharge, parole, or release; one copy to the prosecuting agency
19 that prosecuted the person; and one copy to the Department of
20 Justice. The official in charge of the place of confinement or
21 hospital shall retain one copy.

22 (c) (1) Any person who is convicted in this state of the
23 commission or attempted commission of any of the offenses
24 specified in subdivision (a) and who is released on probation, shall,
25 prior to release or discharge, be informed of the duty to register
26 under this section by the probation department, and a probation
27 officer shall require the person to read and sign any form that may
28 be required by the Department of Justice, stating that the duty of
29 the person to register under this section has been explained to him
30 or her. The probation officer shall obtain the address where the
31 person expects to reside upon release or discharge, and any
32 electronic mail address, ~~instant message address, or other similar~~
33 ~~Internet identifier the person used~~ *and instant message address*
34 *the person uses* or will use to communicate over the Internet, and
35 shall report within three days the residence address and electronic
36 mail addresses, ~~instant message addresses, or other similar Internet~~
37 ~~identifiers~~ *and instant message addresses* to the Department of
38 Justice. The probation officer shall give one copy of the form to
39 the person, send one copy to the Department of Justice, and forward
40 one copy to the appropriate law enforcement agency or agencies

1 having local jurisdiction where the person expects to reside upon
2 his or her discharge, parole, or release.

3 (2) Any person who is convicted in this state of the commission
4 or attempted commission of any of the offenses specified in
5 subdivision (a) and who is granted conditional release without
6 supervised probation, or discharged upon payment of a fine, shall,
7 prior to release or discharge, be informed of the duty to register
8 under this section in open court by the court in which the person
9 has been convicted, and the court shall require the person to read
10 and sign any form that may be required by the Department of
11 Justice, stating that the duty of the person to register under this
12 section has been explained to him or her. If the court finds that it
13 is in the interest of the efficiency of the court, the court may assign
14 the bailiff to require the person to read and sign forms under this
15 section. The court shall obtain the address where the person expects
16 to reside upon release or discharge, and any electronic mail address;
17 ~~instant message address, or other similar Internet identifier the~~
18 ~~person used~~ *and instant message address the person uses* or will
19 use to communicate over the Internet, and shall report within three
20 days the residence address and electronic mail addresses; ~~instant~~
21 ~~message addresses, or other similar Internet identifiers~~ *and instant*
22 *message addresses* to the Department of Justice. The court shall
23 give one copy of the form to the person, send one copy to the
24 Department of Justice, and forward one copy to the appropriate
25 law enforcement agency or agencies having local jurisdiction where
26 the person expects to reside upon his or her discharge, parole, or
27 release.

28 (d) (1) Any person who, on or after January 1, 1986, is
29 discharged or paroled from the Department of Corrections and
30 Rehabilitation to the custody of which he or she was committed
31 after having been adjudicated a ward of the juvenile court pursuant
32 to Section 602 of the Welfare and Institutions Code because of the
33 commission or attempted commission of any offense described in
34 paragraph (3) shall be subject to registration under the procedures
35 of this section.

36 (2) Any person who is discharged or paroled from a facility in
37 another state that is equivalent to the Division of Juvenile Justice,
38 to the custody of which he or she was committed because of an
39 offense which, if committed or attempted in this state, would have
40 been punishable as one or more of the offenses described in

1 paragraph (3), shall be subject to registration under the procedures
2 of this section.

3 (3) Any person described in this subdivision who committed
4 an offense in violation of any of the following provisions shall be
5 required to register pursuant to this section:

6 (A) Assault with intent to commit rape, sodomy, oral copulation,
7 or any violation of Section 264.1, 288, or 289 under Section 220.

8 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of
9 subdivision (a) of Section 261, Section 264.1, 266c, or 267,
10 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,
11 Section 286, Section 288 or 288.5, paragraph (1) of subdivision
12 (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)
13 of Section 289, or Section 647.6.

14 (C) A violation of Section 207 or 209 committed with the intent
15 to violate Section 261, 286, 288, 288a, or 289.

16 (4) Prior to discharge or parole from the Department of
17 Corrections and Rehabilitation, any person who is subject to
18 registration under this subdivision shall be informed of the duty
19 to register under the procedures set forth in this section. Department
20 officials shall transmit the required forms and information to the
21 Department of Justice.

22 (5) All records specifically relating to the registration in the
23 custody of the Department of Justice, law enforcement agencies,
24 and other agencies or public officials shall be destroyed when the
25 person who is required to register has his or her records sealed
26 under the procedures set forth in Section 781 of the Welfare and
27 Institutions Code. This subdivision shall not be construed as
28 requiring the destruction of other criminal offender or juvenile
29 records relating to the case that are maintained by the Department
30 of Justice, law enforcement agencies, the juvenile court, or other
31 agencies and public officials unless ordered by a court under
32 Section 781 of the Welfare and Institutions Code.

33 (e) (1) On or after January 1, 1998, upon incarceration,
34 placement, or commitment, or prior to release on probation, any
35 person who is required to register under this section shall
36 preregister. The preregistering official shall be the admitting officer
37 at the place of incarceration, placement, or commitment, or the
38 probation officer if the person is to be released on probation. The
39 preregistration shall consist of all of the following:

1 (A) A preregistration statement in writing, signed by the person,
2 giving information that shall be required by the Department of
3 Justice.

4 (B) The fingerprints and a current photograph of the person.

5 (C) Any person who is preregistered pursuant to this subdivision
6 is required to be preregistered only once.

7 (2) A person described in paragraph (2) of subdivision (a) shall
8 register, or reregister if the person has previously registered, upon
9 release from incarceration, placement, commitment, or release on
10 probation pursuant to paragraph (1) of subdivision (a). This
11 paragraph shall not apply to a person who is incarcerated for less
12 than 30 days if he or she has registered as required by paragraph
13 (1) of subdivision (a), he or she returns after incarceration to the
14 last registered address, and the annual update of registration that
15 is required to occur within five working days of his or her birthday,
16 pursuant to subparagraph (D) of paragraph (1) of subdivision (a),
17 did not fall within that incarceration period. The registration shall
18 consist of all of the following:

19 (A) A statement in writing signed by the person, giving
20 information as shall be required by the Department of Justice and
21 giving the name and address of the person's employer, and the
22 address of the person's place of employment if that is different
23 from the employer's main address.

24 (B) The fingerprints and a current photograph of the person
25 taken by the registering official.

26 (C) The license plate number of any vehicle owned by, regularly
27 driven by, or registered in the name of the person.

28 (D) Notice to the person that, in addition to the requirements of
29 paragraph (4), he or she may have a duty to register in any other
30 state where he or she may relocate.

31 (E) Copies of adequate proof of residence, which shall be limited
32 to a California driver's license, California identification card, recent
33 rent or utility receipt, printed personalized checks or other recent
34 banking documents showing that person's name and address, or
35 any other information that the registering official believes is
36 reliable. If the person has no residence and no reasonable
37 expectation of obtaining a residence in the foreseeable future, the
38 person shall so advise the registering official and shall sign a
39 statement provided by the registering official stating that fact.
40 Upon presentation of proof of residence to the registering official

1 or a signed statement that the person has no residence, the person
2 shall be allowed to register. If the person claims that he or she has
3 a residence but does not have any proof of residence, he or she
4 shall be allowed to register but shall furnish proof of residence
5 within 30 days of the date he or she is allowed to register.

6 (F) All electronic mail addresses, ~~instant message addresses, or~~
7 ~~other similar Internet identifiers the person used and instant~~
8 ~~message addresses the person uses~~ or will use to communicate
9 over the Internet. ~~These electronic mail addresses, instant message~~
10 ~~addresses, or other similar Internet identifiers shall be provided~~
11 ~~by the Department of Justice to the registrant's probation or parole~~
12 ~~officer, as applicable.~~

13 (3) Within three days thereafter, the preregistering official or
14 the registering law enforcement agency or agencies shall forward
15 the statement, fingerprints, photograph, and vehicle license plate
16 number, if any, to the Department of Justice.

17 (f) (1) (A) Any person who was last registered at a residence
18 address pursuant to this section who changes his or her residence
19 address, whether within the jurisdiction in which he or she is
20 currently registered or to a new jurisdiction inside or outside the
21 state, shall, in person, within five working days of the move, inform
22 the law enforcement agency or agencies with which he or she last
23 registered of the move, the new address or transient location, if
24 known, and any plans he or she has to return to California.

25 (B) If the person does not know the new residence address or
26 location at the time of the move, the registrant shall, in person,
27 within five working days of the move, inform the last registering
28 agency or agencies that he or she is moving. The person shall later
29 notify the last registering agency or agencies, in writing, sent by
30 certified or registered mail, of the new address or location within
31 five working days of moving into the new residence address or
32 location, whether temporary or permanent.

33 (C) The law enforcement agency or agencies shall, within three
34 working days after receipt of this information, forward a copy of
35 the change of address information to the Department of Justice.
36 The Department of Justice shall forward appropriate registration
37 data to the law enforcement agency or agencies having local
38 jurisdiction of the new place of residence.

39 (2) If the person's new address is in a Department of Corrections
40 and Rehabilitation facility or state mental institution, an official

1 of the place of incarceration, placement, or commitment shall,
2 within 90 days of receipt of the person, forward the registrant's
3 change of address information to the Department of Justice. The
4 agency need not provide a physical address for the registrant but
5 shall indicate that he or she is serving a period of incarceration or
6 commitment in a facility under the agency's jurisdiction. This
7 paragraph shall apply to persons received in a department facility
8 or state mental institution on or after January 1, 1999. The
9 Department of Justice shall forward the change of address
10 information to the agency with which the person last registered.

11 (3) If any person who is required to register pursuant to this
12 section changes his or her name, the person shall inform, in person,
13 the law enforcement agency or agencies with which he or she is
14 currently registered within five working days. The law enforcement
15 agency or agencies shall forward a copy of this information to the
16 Department of Justice within three working days of its receipt.

17 ~~(4) If any person who is required to register pursuant to this~~
18 ~~section obtains a new electronic mail address, instant message~~
19 ~~address, or other similar Internet identifier, the person shall inform,~~
20 ~~in writing, sent by certified or registered mail, the law enforcement~~
21 ~~agency or agencies with which he or she is currently registered~~
22 ~~within five working days of obtaining the new electronic mail~~
23 ~~address, instant message address, or other similar Internet identifier.~~
24 ~~The law enforcement agency or agencies shall forward a copy of~~
25 ~~this information to the Department of Justice within three working~~
26 ~~days of its receipt.~~

27 (4) *Commencing July 1, 2010, any time a person is required to*
28 *register or reregister pursuant to this section, he or she shall*
29 *provide, in addition to any other information required by this*
30 *section, all electronic mail addresses and instant messaging*
31 *addresses that he or she may use or is using.*

32 (5) *Commencing July 1, 2010, any time a person who is required*
33 *to register or reregister pursuant to this section changes his or*
34 *her electronic mail address or instant message address, that person*
35 *shall, within five working days, report the new electronic mail*
36 *address or instant message address to the law enforcement agency*
37 *to which that person is required to register pursuant to this section.*

38 (6) *The registering agency shall, within three working days,*
39 *submit the information required by this subdivision into the*
40 *Department of Justice Violent Crime Information Network.*

1 (g) (1) Any person who is required to register under this section
2 based on a misdemeanor conviction or juvenile adjudication who
3 willfully violates any requirement of this section is guilty of a
4 misdemeanor punishable by imprisonment in a county jail not
5 exceeding one year.

6 (2) Except as provided in paragraphs (5), (7), and (9), any person
7 who is required to register under this section based on a felony
8 conviction or juvenile adjudication who willfully violates any
9 requirement of this section or who has a prior conviction or juvenile
10 adjudication for the offense of failing to register under this section
11 and who subsequently and willfully violates any requirement of
12 this section is guilty of a felony and shall be punished by
13 imprisonment in the state prison for 16 months, or two or three
14 years.

15 If probation is granted or if the imposition or execution of
16 sentence is suspended, it shall be a condition of the probation or
17 suspension that the person serve at least 90 days in a county jail.
18 The penalty described in this paragraph shall apply whether or not
19 the person has been released on parole or has been discharged from
20 parole.

21 (3) Any person determined to be a mentally disordered sex
22 offender or who has been found guilty in the guilt phase of trial
23 for an offense for which registration is required under this section,
24 but who has been found not guilty by reason of insanity in the
25 sanity phase of the trial, or who has had a petition sustained in a
26 juvenile adjudication for an offense for which registration is
27 required under this section pursuant to subdivision (d), but who
28 has been found not guilty by reason of insanity, who willfully
29 violates any requirement of this section is guilty of a misdemeanor
30 and shall be punished by imprisonment in a county jail not
31 exceeding one year. For any second or subsequent willful violation
32 of any requirement of this section, the person is guilty of a felony
33 and shall be punished by imprisonment in the state prison for 16
34 months, or two or three years.

35 (4) If, after discharge from parole, the person is convicted of a
36 felony or suffers a juvenile adjudication as specified in this
37 subdivision, he or she shall be required to complete parole of at
38 least one year, in addition to any other punishment imposed under
39 this subdivision. A person convicted of a felony as specified in
40 this subdivision may be granted probation only in the unusual case

1 where the interests of justice would best be served. When probation
2 is granted under this paragraph, the court shall specify on the record
3 and shall enter into the minutes the circumstances indicating that
4 the interests of justice would best be served by the disposition.

5 (5) Any person who has ever been adjudicated a sexually violent
6 predator, as defined in Section 6600 of the Welfare and Institutions
7 Code, and who fails to verify his or her registration every 90 days
8 as required pursuant to subparagraph (E) of paragraph (1) of
9 subdivision (a), shall be punished by imprisonment in the state
10 prison, or in a county jail not exceeding one year.

11 (6) Except as otherwise provided in paragraph (5), any person
12 who is required to register or reregister pursuant to clause (i) of
13 subparagraph (C) of paragraph (1) of subdivision (a) and willfully
14 fails to comply with the requirement that he or she reregister no
15 less than every 30 days is guilty of a misdemeanor and shall be
16 punished by imprisonment in a county jail at least 30 days, but not
17 exceeding six months. A person who willfully fails to comply with
18 the requirement that he or she reregister no less than every 30 days
19 shall not be charged with this violation more often than once for
20 a failure to register in any period of 90 days. Any person who
21 willfully commits a third or subsequent violation of the
22 requirements of subparagraph (C) of paragraph (1) of subdivision
23 (a) that he or she reregister no less than every 30 days shall be
24 punished in accordance with either paragraph (1) or (2) of this
25 subdivision.

26 (7) Any person who fails to provide proof of residence as
27 required by subparagraph (E) of paragraph (2) of subdivision (e),
28 regardless of the offense upon which the duty to register is based,
29 is guilty of a misdemeanor punishable by imprisonment in a county
30 jail not exceeding six months.

31 (8) Any person who is required to register under this section
32 who willfully violates any requirement of this section is guilty of
33 a continuing offense as to each requirement he or she violated.

34 (9) In addition to any other penalty imposed under this
35 subdivision, the failure to provide information required on
36 registration and reregistration forms of the Department of Justice,
37 or the provision of false information, is a crime punishable by
38 imprisonment in a county jail for a period not exceeding one year.

39 (h) Whenever any person is released on parole or probation and
40 is required to register under this section but fails to do so within

1 the time prescribed, the parole authority or the court, as the case
2 may be, shall order the parole or probation of the person revoked.
3 For purposes of this subdivision, “parole authority” has the same
4 meaning as described in Section 3000.

5 (i) Except as otherwise provided by law, the statements,
6 photographs, and fingerprints required by this section shall not be
7 open to inspection by the public or by any person other than a
8 regularly employed peace officer or other law enforcement officer.

9 (j) In any case in which a person who would be required to
10 register pursuant to this section for a felony conviction is to be
11 temporarily sent outside the institution where he or she is confined
12 on any assignment within a city or county including firefighting,
13 disaster control, or of whatever nature the assignment may be, the
14 local law enforcement agency having jurisdiction over the place
15 or places where the assignment shall occur shall be notified within
16 a reasonable time prior to removal from the institution. This
17 subdivision shall not apply to any person who is temporarily
18 released under guard from the institution where he or she is
19 confined.

20 (k) As used in this section, “mentally disordered sex offender”
21 includes any person who has been determined to be a sexual
22 psychopath or a mentally disordered sex offender under any
23 provision which, on or before January 1, 1976, was contained in
24 Division 6 (commencing with Section 6000) of the Welfare and
25 Institutions Code.

26 (l) (1) Every person who, prior to January 1, 1997, is required
27 to register under this section, shall be notified whenever he or she
28 next reregisters of the reduction of the registration period from 14
29 to 5 working days. This notice shall be provided in writing by the
30 registering agency or agencies. Failure to receive this notification
31 shall be a defense against the penalties prescribed by subdivision
32 (g) if the person did register within 14 days.

33 (2) Every person who, as a sexually violent predator, as defined
34 in Section 6600 of the Welfare and Institutions Code, is required
35 to verify his or her registration every 90 days, shall be notified
36 wherever he or she next registers of his or her increased registration
37 obligations. This notice shall be provided in writing by the
38 registering agency or agencies. Failure to receive this notice shall
39 be a defense against the penalties prescribed by paragraph (5) of
40 subdivision (g).

1 (m) The registration provisions of this section are applicable to
2 every person described in this section, without regard to when his
3 or her crime or crimes were committed or his or her duty to register
4 pursuant to this section arose, and to every offense described in
5 this section, regardless of when it was committed.

6 (n) On or before June 1, 2010, the Department of Justice shall
7 renovate the VCIN to do the following:

8 (1) Correct all software deficiencies affecting data integrity and
9 include designated data fields for all mandated sex offender data.

10 (2) Consolidate and simplify program logic, thereby increasing
11 system performance and reducing system maintenance costs.

12 (3) Provide all necessary data storage, processing, and search
13 capabilities.

14 (4) Provide law enforcement agencies with full Internet access
15 to all sex offender data and photos.

16 (5) Incorporate a flexible design structure to readily meet future
17 demands for enhanced system functionality, including public
18 Internet access to sex offender information pursuant to Section
19 290.46.

20 SEC. 3. Section 290.46 of the Penal Code is amended to read:

21 290.46. (a) (1) On or before the dates specified in this section,
22 the Department of Justice shall make available information
23 concerning persons who are required to register pursuant to Section
24 290 to the public via an Internet Web site as specified in this
25 section. The department shall update the Internet Web site on an
26 ongoing basis. All information identifying the victim by name,
27 birth date, address, or relationship to the registrant shall be
28 excluded from the Internet Web site. The name or address of the
29 person's employer and the listed person's criminal history other
30 than the specific crimes for which the person is required to register
31 shall not be included on the Internet Web site. The Internet Web
32 site shall be translated into languages other than English as
33 determined by the department.

34 (2) (A) On or before July 1, 2010, the Department of Justice
35 shall make available to the public, via an Internet Web site as
36 specified in this section, as to any person described in subdivisions
37 (b), (c), or (d), the following information:

38 (i) The year of conviction of his or her most recent offense
39 requiring registration pursuant to Section 290.

1 (ii) The year he or she was released from incarceration for that
2 offense.

3 (iii) Whether he or she was subsequently incarcerated for any
4 other felony, if that fact is reported to the department. If the
5 department has no information about a subsequent incarceration
6 for any felony, that fact shall be noted on the Internet Web site.

7 However, no year of conviction shall be made available to the
8 public unless the department also is able to make available the
9 corresponding year of release of incarceration for that offense, and
10 the required notation regarding any subsequent felony.

11 (B) (i) Any state facility that releases from incarceration a
12 person who was incarcerated because of a crime for which he or
13 she is required to register as a sex offender pursuant to Section
14 290 shall, within 30 days of release, provide the year of release
15 for his or her most recent offense requiring registration to the
16 Department of Justice in a manner and format approved by the
17 department.

18 (ii) Any state facility that releases a person who is required to
19 register pursuant to Section 290 from incarceration whose
20 incarceration was for a felony committed subsequently to the
21 offense for which he or she is required to register shall, within 30
22 days of release, advise the Department of Justice of that fact.

23 (iii) Any state facility that, prior to January 1, 2007, released
24 from incarceration a person who was incarcerated because of a
25 crime for which he or she is required to register as a sex offender
26 pursuant to Section 290 shall provide the year of release for his or
27 her most recent offense requiring registration to the Department
28 of Justice in a manner and format approved by the department.
29 The information provided by the Department of Corrections and
30 Rehabilitation shall be limited to information that is currently
31 maintained in an electronic format.

32 (iv) Any state facility that, prior to January 1, 2007, released a
33 person who is required to register pursuant to Section 290 from
34 incarceration whose incarceration was for a felony committed
35 subsequently to the offense for which he or she is required to
36 register shall advise the Department of Justice of that fact in a
37 manner and format approved by the department. The information
38 provided by the Department of Corrections and Rehabilitation
39 shall be limited to information that is currently maintained in an
40 electronic format.

(3) The Department of Mental Health shall provide to the Department of Justice Sex Offender Tracking Program the names of all persons committed to its custody pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, within 30 days of commitment, and shall provide the names of all of those persons released from its custody within five working days of release.

(b) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in, or who is described in, paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, prior adjudication as a sexually violent predator, the address at which the person resides, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Paragraph (2) or (6) of subdivision (a) of Section 261.

(D) Section 264.1.

(E) Section 269.

(F) Subdivision (c) or (d) of Section 286.

(G) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(H) Subdivision (c) or (d) of Section 288a.

(I) Section 288.3, provided that the offense is a felony.

(J) Section 288.5.

(K) Subdivision (a) or (j) of Section 289.

(L) Section 288.7.

(M) Any person who has ever been adjudicated a sexually violent predator as defined in Section 6600 of the Welfare and Institutions Code.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of

1 Justice shall make available to the public via the Internet Web site
2 his or her name and known aliases, a photograph, a physical
3 description, including gender and race, date of birth, criminal
4 history, the community of residence and ZIP Code in which the
5 person resides or the county in which the person is registered as a
6 transient, and any other information that the Department of Justice
7 deems relevant, but not the information excluded pursuant to
8 subdivision (a). On or before July 1, 2006, the Department of
9 Justice shall determine whether any person convicted of an offense
10 listed in paragraph (2) also has one or more prior or subsequent
11 convictions of an offense listed in paragraph (2) of subdivision (a)
12 of Section 290, and, for those persons, the Department of Justice
13 shall make available to the public via the Internet Web site the
14 address at which the person resides. However, the address at which
15 the person resides shall not be disclosed until a determination is
16 made that the person is, by virtue of his or her additional prior or
17 subsequent conviction of an offense listed in paragraph (2) of
18 subdivision (a) of Section 290, subject to this subdivision.

19 (2) This subdivision shall apply to the following offenses:

20 (A) Section 220, except assault to commit mayhem.

21 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

22 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
23 (i), of Section 286.

24 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
25 (i), of Section 288a.

26 (E) Subdivision (b), (d), (e), or (i) of Section 289.

27 (d) (1) On or before July 1, 2005, with respect to a person who
28 has been convicted of the commission or the attempted commission
29 of any of the offenses listed in, or who is described in, this
30 subdivision, the Department of Justice shall make available to the
31 public via the Internet Web site his or her name and known aliases,
32 a photograph, a physical description, including gender and race,
33 date of birth, criminal history, the community of residence and
34 ZIP Code in which the person resides or the county in which the
35 person is registered as a transient, and any other information that
36 the Department of Justice deems relevant, but not the information
37 excluded pursuant to subdivision (a) or the address at which the
38 person resides.

39 (2) This subdivision shall apply to the following offenses and
40 offenders:

1 (A) Subdivision (a) of Section 243.4, provided that the offense
2 is a felony.

3 (B) Section 266, provided that the offense is a felony.

4 (C) Section 266c, provided that the offense is a felony.

5 (D) Section 266j.

6 (E) Section 267.

7 (F) Subdivision (c) of Section 288, provided that the offense is
8 a misdemeanor.

9 (G) Section 288.3, provided that the offense is a misdemeanor.

10 (H) Section 626.81.

11 (I) Section 647.6.

12 (J) Section 653c.

13 (K) Any person required to register pursuant to Section 290
14 based upon an out-of-state conviction, unless that person is
15 excluded from the Internet Web site pursuant to subdivision (e).
16 However, if the Department of Justice has determined that the
17 out-of-state crime, if committed or attempted in this state, would
18 have been punishable in this state as a crime described in
19 subparagraph (A) of paragraph (2) of subdivision (a) of Section
20 290, the person shall be placed on the Internet Web site as provided
21 in subdivision (b) or (c), as applicable to the crime.

22 (e) (1) If a person has been convicted of the commission or the
23 attempted commission of any of the offenses listed in this
24 subdivision, and he or she has been convicted of no other offense
25 listed in subdivision (b), (c), or (d) other than those listed in this
26 subdivision, that person may file an application with the
27 Department of Justice, on a form approved by the department, for
28 exclusion from the Internet Web site. If the department determines
29 that the person meets the requirements of this subdivision, the
30 department shall grant the exclusion and no information concerning
31 the person shall be made available via the Internet Web site
32 described in this section. He or she bears the burden of proving
33 the facts that make him or her eligible for exclusion from the
34 Internet Web site. However, a person who has filed for or been
35 granted an exclusion from the Internet Web site is not relieved of
36 his or her duty to register as a sex offender pursuant to Section
37 290 nor from any otherwise applicable provision of law. The
38 electronic mail addresses, ~~instant message addresses, and other~~
39 ~~similar Internet identifiers and instant message addresses~~ of a
40 person required to register pursuant to Section 290 who has filed

1 for or has been granted an exclusion from the Internet Web site
2 shall be available to commercial social networking Web site in
3 accordance with paragraph (2) of subdivision (I).

4 (2) This subdivision shall apply to the following offenses:

5 (A) A felony violation of subdivision (a) of Section 243.4.

6 (B) Section 647.6, if the offense is a misdemeanor.

7 (C) (i) An offense for which the offender successfully
8 completed probation, provided that the offender submits to the
9 department a certified copy of a probation report, presentencing
10 report, report prepared pursuant to Section 288.1, or other official
11 court document that clearly demonstrates that the offender was
12 the victim's parent, stepparent, sibling, or grandparent and that the
13 crime did not involve either oral copulation or penetration of the
14 vagina or rectum of either the victim or the offender by the penis
15 of the other or by any foreign object.

16 (ii) An offense for which the offender is on probation at the
17 time of his or her application, provided that the offender submits
18 to the department a certified copy of a probation report,
19 presentencing report, report prepared pursuant to Section 288.1,
20 or other official court document that clearly demonstrates that the
21 offender was the victim's parent, stepparent, sibling, or grandparent
22 and that the crime did not involve either oral copulation or
23 penetration of the vagina or rectum of either the victim or the
24 offender by the penis of the other or by any foreign object.

25 (iii) If, subsequent to his or her application, the offender commits
26 a violation of probation resulting in his or her incarceration in
27 county jail or state prison, his or her exclusion, or application for
28 exclusion, from the Internet Web site shall be terminated.

29 (iv) For the purposes of this subparagraph, "successfully
30 completed probation" means that during the period of probation
31 the offender neither received additional county jail or state prison
32 time for a violation of probation nor was convicted of another
33 offense resulting in a sentence to county jail or state prison.

34 (3) If the department determines that a person who was granted
35 an exclusion under a former version of this subdivision would not
36 qualify for an exclusion under the current version of this
37 subdivision, the department shall rescind the exclusion, make a
38 reasonable effort to provide notification to the person that the
39 exclusion has been rescinded, and, no sooner than 30 days after
40 notification is attempted, make information about the offender

1 available to the public on the Internet Web site as provided in this
2 section.

3 (4) Effective January 1, 2012, no person shall be excluded
4 pursuant to this subdivision unless the offender has submitted to
5 the department documentation sufficient for the department to
6 determine that he or she has a SARATSO risk level of low or
7 moderate low.

8 (f) The Department of Justice shall make a reasonable effort to
9 provide notification to persons who have been convicted of the
10 commission or attempted commission of an offense specified in
11 subdivision (b), (c), or (d), that on or before July 1, 2005, the
12 department is required to make information about specified sex
13 offenders available to the public via an Internet Web site as
14 specified in this section. The Department of Justice shall also make
15 a reasonable effort to provide notice that some offenders are
16 eligible to apply for exclusion from the Internet Web site.

17 (g) (1) A designated law enforcement entity, as defined in
18 subdivision (f) of Section 290.45, may make available information
19 concerning persons who are required to register pursuant to Section
20 290 to the public via an Internet Web site as specified in paragraph
21 (2).

22 (2) The law enforcement entity may make available by way of
23 an Internet Web site the information described in subdivision (c)
24 if it determines that the public disclosure of the information about
25 a specific offender by way of the entity's Internet Web site is
26 necessary to ensure the public safety based upon information
27 available to the entity concerning that specific offender.

28 (3) The information that may be provided pursuant to this
29 subdivision may include the information specified in subdivision
30 (b) of Section 290.45. However, that offender's address may not
31 be disclosed unless he or she is a person whose address is on the
32 Department of Justice's Internet Web site pursuant to subdivision
33 (b) or (c).

34 (h) For purposes of this section, "offense" includes the statutory
35 predecessors of that offense, or any offense committed in another
36 jurisdiction that, if committed or attempted to be committed in this
37 state, would have been punishable in this state as an offense listed
38 in subparagraph (A) of paragraph (2) of subdivision (a) of Section
39 290.

1 (i) Notwithstanding Section 6254.5 of the Government Code,
2 disclosure of information pursuant to this section is not a waiver
3 of exemptions under Chapter 3.5 (commencing with Section 6250)
4 of Title 1 of Division 7 of the Government Code and does not
5 affect other statutory restrictions on disclosure in other situations.

6 (j) (1) Any person who uses information disclosed pursuant to
7 this section to commit a misdemeanor shall be subject to, in
8 addition to any other penalty or fine imposed, a fine of not less
9 than ten thousand dollars (\$10,000) and not more than fifty
10 thousand dollars (\$50,000).

11 (2) Any person who uses information disclosed pursuant to this
12 section to commit a felony shall be punished, in addition and
13 consecutive to any other punishment, by a five-year term of
14 imprisonment in the state prison.

15 (k) Any person who is required to register pursuant to Section
16 290 who enters an Internet Web site established pursuant to this
17 section shall be punished by a fine not exceeding one thousand
18 dollars (\$1,000), imprisonment in a county jail for a period not to
19 exceed six months, or by both that fine and imprisonment.

20 (l) (1) A person is authorized to use information disclosed
21 pursuant to this section only to protect a person at risk.

22 (2) The Department of Justice shall maintain a system allowing
23 a commercial social networking Web site, or a third party
24 designated by a commercial social networking Web site, to screen
25 new users and compare the database of registered users of that
26 commercial social networking Web site to the electronic mail
27 addresses, instant message addresses, and other similar Internet
28 identifiers of persons required to register pursuant to Section 290.

29 (A) A commercial social networking Web site desiring to screen
30 new users and compare its database of registered users to the
31 electronic mail addresses, instant message addresses, and other
32 similar Internet identifiers of persons required to register pursuant
33 to Section 290 shall provide all of the following to the Department
34 of Justice:

35 (i) The name, address, and telephone number of the commercial
36 social networking Web site and any third party designated by the
37 commercial social networking Web site to perform the comparison
38 and screening on its behalf.

39 (ii) The specific legal nature and corporate status of the
40 commercial social networking Web site.

(iii) An affirmation signed by the chief legal officer of the commercial social networking Web site that the information obtained from the Department of Justice shall not be disclosed for any purpose other than for screening new users and comparing the database of registered users of that commercial social networking Web site against the electronic mail addresses, instant message addresses, and other similar Internet identifiers of persons required to register pursuant to Section 290 to protect children from online sexual predators and that disclosure of this information for purposes other than those listed in this section may be unlawful.

(iv) The name, address, and telephone number of a natural person who consents to service of process for the commercial social networking Web site.

(B) After a commercial social networking Web site has complied with subparagraph (A) of paragraph (2) and paid any fee that may be established by the Department of Justice to cover the cost of providing the information, the commercial social networking Web site, or a third party designated by a commercial social networking Web site, may screen new users or compare its database of registered users to the list of electronic mail addresses, ~~instant message addresses, and other similar Internet identifiers~~ *and instant message addresses* of persons who are required to register *or reregister* pursuant to Section 290 as frequently as the Department of Justice may allow for the purpose of identifying a registered user associated with an electronic mail address, ~~instant message address, or other similar Internet identifier~~ *and instant message address* of persons required to register *or reregister* pursuant to Section 290 *and remove that person from the social networking Web site.*

(C) The term “commercial social networking Web site” means a commercially operated Internet Web site that allows users to create Web pages or profiles that provide information about themselves and are available publicly or to other users and offers a mechanism for communicating with other users, such as a forum, chat room, electronic mail, or instant messenger.

(3) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

(A) Health insurance.

- 1 (B) Insurance.
- 2 (C) Loans.
- 3 (D) Credit.
- 4 (E) Employment.
- 5 (F) Education, scholarships, or fellowships.
- 6 (G) Housing or accommodations.
- 7 (H) Benefits, privileges, or services provided by any business
- 8 establishment.

9 (4) This section shall not affect authorized access to, or use of,
10 information pursuant to, among other provisions, Sections 11105
11 and 11105.3, Section 8808 of the Family Code, Sections 777.5
12 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871
13 of the Health and Safety Code, and Section 432.7 of the Labor
14 Code.

15 (5) (A) Any use of information disclosed pursuant to this section
16 for purposes other than those provided by paragraphs (1) and (2)
17 or in violation of paragraph (3) shall make the user liable for the
18 actual damages, and any amount that may be determined by a jury
19 or a court sitting without a jury, not exceeding three times the
20 amount of actual damage, and not less than two hundred fifty
21 dollars (\$250), and attorney's fees, exemplary damages, or a civil
22 penalty not exceeding twenty-five thousand dollars (\$25,000).

23 (B) Whenever there is reasonable cause to believe that any
24 person or group of persons is engaged in a pattern or practice of
25 misuse of the information available via an Internet Web site
26 established pursuant to this section in violation of paragraph (3),
27 the Attorney General, any district attorney, or city attorney, or any
28 person aggrieved by the misuse is authorized to bring a civil action
29 in the appropriate court requesting preventive relief, including an
30 application for a permanent or temporary injunction, restraining
31 order, or other order against the person or group of persons
32 responsible for the pattern or practice of misuse. The foregoing
33 remedies shall be independent of any other remedies or procedures
34 that may be available to an aggrieved party under other provisions
35 of law, including Part 2 (commencing with Section 43) of Division
36 1 of the Civil Code.

37 (m) The public notification provisions of this section are
38 applicable to every person described in this section, without regard
39 to when his or her crimes were committed or his or her duty to

1 register pursuant to Section 290 arose, and to every offense
2 described in this section, regardless of when it was committed.

3 (n) On or before July 1, 2006, and every year thereafter, the
4 Department of Justice shall make a report to the Legislature
5 concerning the operation of this section.

6 (o) A designated law enforcement entity and its employees shall
7 be immune from liability for good faith conduct under this section.

8 (p) A commercial social networking Web site and any director,
9 officer, employee, or agent of that commercial social networking
10 Web site shall be immune from liability for good faith conduct
11 under this section.

12 (q) *A commercial social networking Web site shall be immune*
13 *from civil liability for all of the following:*

14 (1) *Any action taken by a registered user whose electronic mail*
15 *address or instant message address is contained in the database*
16 *of the Department of Justice.*

17 (2) *Any action voluntarily taken in good faith to remove or*
18 *disable any profile of a registered user with an electronic mail*
19 *address or instant message address that is contained in the*
20 *database of the Department of Justice.*

21 (3) *Any action taken to restrict access to the commercial social*
22 *networking database by a registered user with an electronic mail*
23 *address or instant message address that is contained in the*
24 *database of the Department of Justice.*

25 ~~(q)~~

26 (r) The Attorney General, in collaboration with local law
27 enforcement and others knowledgeable about sex offenders, shall
28 develop strategies to assist members of the public in understanding
29 and using publicly available information about registered sex
30 offenders to further public safety. These strategies may include,
31 but are not limited to, a hotline for community inquiries,
32 neighborhood and business guidelines for how to respond to
33 information posted on this Web site, and any other resource that
34 promotes public education about these offenders.

35 SEC. 4. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution for certain
37 costs that may be incurred by a local agency or school district
38 because, in that regard, this act creates a new crime or infraction,
39 eliminates a crime or infraction, or changes the penalty for a crime
40 or infraction, within the meaning of Section 17556 of the

1 Government Code, or changes the definition of a crime within the
2 meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 However, if the Commission on State Mandates determines that
5 this act contains other costs mandated by the state, reimbursement
6 to local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

O